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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/697,586	10/29/2003	Craig M. Schaefer	7247.00002	7681
29747	7590	12/29/2004		
QUIRK & TRATOS 3773 HOWARD HUGHES PARKWAY SUITE 500 NORTH LAS VEGAS, NV 89109				
			EXAMINER FERNSTROM, KURT	
			ART UNIT 3714	PAPER NUMBER

DATE MAILED: 12/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No. 10/697,586	Applicant(s) SCHAEFER ET AL.	
	Examiner Kurt Fernstrom	Art Unit 3712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2004.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1,2,4-7 and 9-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 20 is/are allowed.
- 6) ☒ Claim(s) 1,2,4-7,9-19,21 and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 2, 4, 6, 7, 9-11, 13-15, 17-19, 21 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perrie in view of Spears. Perrie discloses in the Figures and in column 3, lines 40-60 a method of playing a wagering game comprising accepting a player wager, allowing the player to roll five six-sided dice, allowing the player to hold some of the dice and re-roll the other dice, and resolving the wager based on the outcome of the rolls. Column 4, lines 37-40 disclose that in one embodiment the wager is resolved based on the sum of the dice. Perrie fails to disclose that the wager is based upon a pre-established range of low dice sums and high dice sums. Spears discloses in column 2, lines 49-55 of the specification a dice wagering game wherein a wager is based upon a pre-established range of low dice sums (in this case, 5-16) and high dice sums (19-30). It would have been obvious to one of ordinary skill in the relevant art to modify the method and device of Perrie by providing pre-established high and low dice sums for the purpose of allowing a player to win a wager if the dice sum falls within the range. With respect to claims 2 and 7, bonus rounds are a well known feature of wagering games, and are disclosed in Perrie. It is also known to provide

some sort of award to a player when all dice have the same number, as is also disclosed by Perrie. Providing a bonus round based on the dice having the same value is obvious variation on the disclosed methods of Perrie. With respect to claims 4, 10, 11 and 21-22, it is known in gaming devices and methods to allow a player to vary the amount of the bet, as disclosed for example in column 7, lines 61-65 of Perrie. This amounts to selecting one of multiple pay tables, where the amount bet is related to the amount of risk taken. With respect to claims 9, 14 and 18, the claimed ranges are considered to be obvious variations on the disclosure of Spears. Perrie discloses in column 14, lines 34-38 that specific ranges of results can be used to determine payouts. The precise ranges claimed by applicant are obvious in light of the disclosure of Perrie. With respect to claim 13, Figure 2 and column 4, line 65 to column 5, line 10 of Perrie disclose an apparatus for playing the game comprising a table 200, dice 20 and a wagering area 250. With respect to claim 15, Perrie discloses in Figure 4 and in column 9, lines 41-58 an electronic gaming machine for playing the game having a processor, a player interface and a display as claimed. With respect to claim 19, Perrie discloses in column 22, lines 57-65 that a network of computer terminals may be provided for playing the game.

Claims 5 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perrie in view of Spears, and further in view of Tarantino. Perry as viewed in combination with Spears discloses all of the limitations of the claims with the exception of the advancement to a progressive jackpot. Tarantino discloses in the Figures and in column 5, line 36 to column 10, line 65 a method of playing a wagering game

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comprising accepting a player wager, allowing the player to roll five six-sided dice, allowing the player to hold some of the dice and re-roll the other dice, and resolving the wager based on the outcome of the rolls. Tarantino further discloses in several places, for example in column 15, lines 6-16 that a player may advance to one or more progressive jackpot rounds. It would have been obvious to one of ordinary skill in the relevant art to modify the method of Perry as viewed in combination with Spears by providing a progressive jackpot step as claimed for the purpose of enhancing the entertainment value of the game.

Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Perrie in view of Spears, and further in view of Bridgeman. Perrie as viewed in combination with Spears discloses all of the limitations of the claim with the exception of the touchscreen. This feature is well known, however, as disclosed for example in column 9, lines 32-34 of Bridgeman. It would have been obvious to one of ordinary skill in the relevant art to modify the device disclosed by Perrie as viewed in combination with Spears by providing touchscreen technology for the purpose of making it easier for a user to input information to the device.

#### ***Allowable Subject Matter***

Claim 20 is allowed.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 1, 3, 5, 6, 13, 15, 17 and 19 have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments concerning claims 4, 10, 11 and 21-22 are not persuasive. The claim language as written is very broad. The well-known payout scheme as described in Perrie reads on the claims, in that a small bet subjects a player to a pay table involving a smaller level of risk and a smaller payout, and a larger bet increases the risk but increases the payout. While the example presented on page 7 of the Remarks (but not in the specification) may be different from the embodiment disclosed by Perrie, the claim language does not overcome the prior art.

### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hoffman, Levy, Franklin, Vancura, White, Hedge, Brown and Berman disclose various dice wagering games where the outcome of a wager is based upon a sum of the dice.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kurt Fernstrom whose telephone number is (571) 272-4422. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on (571) 272-4419. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KF

December 22, 2004



**KURT FERNSTROM**  
**PRIMARY EXAMINER**